Oddities in Early Illinois Laws

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By "oddities" as used in the subject of this paper, is meant the unusual, the striking. And the odd laws to which reference is made are such as would arrest one's attention and cause more or less surprise that such laws were enacted at the time and under the circumstances.

In organized society, legislation is, however, the essence of history. To understand the history of a period, one must know its laws, and if one be thoroughly conversant with the laws of a nation or state, he has taken the most important step toward the mastery of its history.

Naturally, this paper deals chiefly with written laws since to follow the varying decisions of courts haphazardly constituted as they were in the very early days would give more or less importance to individual notions. There were some customs and rulings, however, amongst the very earliest peoples, even including the Indians, which seem to have had sufficient vogue to virtually become laws.

INDIAN CUSTOMS.

It was the custom amongst many tribes of Indians, apparently for the purpose of stimulating energy and activity, to dedicate little male papooses to one or the other of two colors; either black or white, and as the little Indians grew up, they were counted amongst the number of their corresponding color and co-operated with them in all games and contests.

Another odd custom is found in the form of punishment meted out to false or supposedly false consorts. Upon the testimony of an Indian brave that his squaw was false to him, such derelict was punished by having her nose cut off.

FRENCH CUSTOMS.

Due to the fact, perhaps, that money was a very scarce article amongst the French in early Illinois, it was quite common to adjudge payment in kind; that is, if one member of the community borrowed a horse from another and through some misfortune, such as an Indian attack, the horse were killed or stolen, upon action brought, the court would decree the return of another horse without attempting too nicely to balance values.

Many instances are found in the French times where a party plaintiff in a demand was given the growing crops of the defendant out of which to make his demand. It was also permissible, it seems, to adjudge the services of a defendant in payment of a claim against him.

ODD LAWS AND USAGES DURING THE VIRGINIA PERIOD.

The declaration of principles and many of the laws under the Virginia regime were odd in the sense that they were surprisingly advanced. These and the public and private communications and instructions to George Rogers Clark and John Todd by the Assembly of Virginia and Governors Patrick Henry and Thomas Jefferson were models of governmental solicitude.

The declaration of principles adopted by the representatives of the "Good People of Virginia" on June 12, 1776, prior to the Declaration of Independence asserted:

> "That all men are by nature equally free and independent.
>
> That they have certain rights; *viz,* the right to the enjoyment of life and liberty with the means of acquiring and possessing property and pursuing and obtaining happiness and safety, of which they can not by any compact,

upon entering into a state of society, deprive or divest their posterity.

That all power is vested in and derived from the people.

That magistrates are the people's trustees and servants and at all times amenable to the people.

That that form of government is best which is capable of producing the greatest degree of happiness and safety and is most effectually secured against the danger of mal-administration.

That elections should be free and that all men having sufficient evidence of permanent common interest with and attachment to the community have the right of suffrage.

That no one can be taxed or deprived of his property for public uses without his consent or that of his representatives elected by him, nor bounden by any law to which he shall not, in like manner, have assented for the public good.

That all power of suspending laws by any authority without the consent of the representatives of the people is injurious and ought not to be exercised.

That in all criminal prosecutions, the accused has the right to demand the cause and nature of his accusation, to be confronted with the accusers and witnesses, to call for evidence in his favor, to a speedy trial by an impartial jury of his vicinage without whose unanimous consent he cannot be found guilty.

That no man can be compelled to give evidence against himself or deprived of his liberty except by the law of the land or the judgment of his peers.

Excessive bail ought not to be required nor excessive fines imposed nor cruel and unusual punishment inflicted.

That general warrants are grievous and oppressive and ought not to be granted.

That trial by jury is preferable to any other and ought to be held sacredly.

That the freedom of the press is one of the great bulwarks of liberty and can never be restrained but by despotic governments.

That the blessings of liberty can be preserved to any people only by a firm adherence to justice, moderation, temperance, frugality and virtue and by frequent recurrence to fundamental principles.

That religion or the duty which we owe to our Creator and the manner of discharging it can be directed only by reason and conviction, not by force or violence, and therefore, all men are equally entitled to the free exercise of religion according to the dictates of conscience, and that it is the mutual duty of all to practice Christian forbearance, love and charity towards each other".

More Democratic Than the Ordinance of 1787.

Contrasting this declaration of rights with the ordinance of 1787, it is found much more democratic. The ordinance of 1787 has been highly and justly praised, but as Moses, in his "Illinois, Historical and Statistical", has pointed out:

> "It appears that some of the most important declarations of rights contained in these early constitutions and since re-enacted, were not included in the ordinance; namely, the liberty of the press, the right of free speech, the right of petition, the freedom of elections, the right to bear arms and the prohibition of *ex-post-facto* laws."

POPULAR RIGHTS.

As early as 1778, the Assembly of Virginia adopted a complete election code by which most of the local officers and officers of the commonwealth were to be elected. Under the ordinance of 1787, no officer was to be elected during the first grade of territorial government and none but members of the Legislature during the second grade. The qualifications for voting even for members of the Legislature were exacting, including heavy property qualifications, which reduced the electorate to a small class.

Further evidence of the democracy of the Virginia regime is furnished by acts of the assembly of that colony. On December 5, 1785, an act was passed declaring that none shall be con-

demned without trial and that justice shall not be sold or deferred, and on December 6, 1785, an act was passed with an elaborate preamble declaring that all men are free to profess and maintain any religious belief, that such rights shall not be the cause of any disability and are the "natural rights of mankind."

WITCHCRAFT.

Strange as it may seem, and in contrast with the enlightened policy of Virginia, amongst the first public acts of the government under the Virginia colony administered by John Todd as lieutenant of the County of Illinois created by the General Assembly, was a prosecution and execution for witch-craft. A doting old negro was adjudged guilty of sorcery and witchcraft and was shot by order of Lieutenant Todd.

PURE FOOD.

It is only in recent years that national and state governments have awakened to the necessity of inspection and supervision of foods, but as early as November 27, 1786, and before the Illinois country had any other government than that of Virginia, an act was passed by the Virginia Assembly which forbade a butcher to sell the flesh of any animal dying otherwise than by slaughter and forbidding a baker, brewer, distiller or other person from selling unwholesome bread or drink. The punishment for violation of any provision of the law was, for the first offense, amercement; for the second offense, by the pillory; for the third, fine and imprisonment, and for each subsequent offense, the person convicted was adjudged to hard labor for six months in the public works.

THE TERRITORIAL PERIOD.

While democracy and broad humanity were the cardinal principles of the Virgina regime, precision and efficiency were marked characteristics of the administration of the Northwest Territory.

Whatever other criticisms may be visited upon the Governor, General Arthur St. Clair, lawyers must agree that he and the court appointed by the President, and constituted by the ordinance of 1787 the legislative power of the Territory, proved highly capable as law-makers.

What is known as the "Maxwell Code" was an admirable body of laws and to this day forms the basis of our statutes. Good lawyers will concede that many of the laws enacted by this early law-making body were distinctly superior to any that have been passed by any succeeding body exercising legislative functions over Illinois territory.

There were, however, numerous acts or provisions in acts in those early days that provoke a smile or occasion surprise.

ATTORNEYS.

As of interest to lawyers, it is somewhat surprising that as far back as 1792, an act was passed regulating the practice of law which, on comparison, would, I think, be considered a far better law than that of the present day.

We must smile at an act of August 1, 1792, which limited the employment of counsel to two on one side of a case and provided that when there are no more than two attorneys practicing at any bar, a client will not be permitted to hire more than one of them.

Present day lawyers will rejoice that an act of August 1, 1792, is not now in force. It contained this interesting provision relative to attorneys' fees:

> "For a pleading fee when counsel is employed on an issue in law or fact joined in the supreme court, two dollars; for all other causes in the supreme court and for all causes in the court of common pleas and court of general quarter sessions of the peace where an issue in fact or law is joined, one hundred and fifty cents; and for all other causes in the common pleas and court of quarter sessions as a retaining fee one dollar; in criminal causes where one or more defendants are tried by jury at the same time or where a cause is determined by an issue at law a pleading fee for the counsel in the supreme court

(but to one counsel only) two dollars; and when no trial is had by jury nor the cause determined by an issue in law, one dollar and an half; and in the court of general quarter sessions of the peace the fees shall be the same as is allowed in the court of common pleas."

By 1798 it was thought advisable to amend the laws relating to attorneys' fees and on May 1st of that year, an act was passed, section seven of which reads as follows:

"SEC. 7. *Attorneys' fees in common pleas and quarter sessions.*—Retaining fee one dollar; pleading fee where issue or demurrer one dollar and fifty cents; term fee fifty cents; the attorney general's deputy in the court of common pleas or quarter sessions one-half the fees by law allowed the attorney general in the general court for similar services."

An act of October 1, 1795, prescribed the oath which an attorney or counsellor at law was required to take and which, no doubt, some people would think quite salutary now. It was as follows: "You shall behave yourself in the office of counsellor at law (or attorney as the case may be) while within this court according to the best of your learning and with all fidelity as well to the court as to the client. You shall use no falsehood nor delay any person's cause for lucre or malice (so help you God)."

CANALS.

Preferring to direct attention to the peculiarities in the laws in somewhat of an alphabetical order, rather than chronologically, we come upon an interesting act of the Indiana Legislative body; that is, Governor Harrison and the territorial judges with reference to a canal. By an act passed August 24, 1805, the "Indiana Canal Company" was incorporated. This was the parent canal act and concerned a canal at the falls of the Ohio. It was most interesting in the personnel of the board of directors appointed by the Legislature, many of whom have come down to us as prominent historical figures. This first canal board consisted of George Rogers Clark, John

Brown, Jonathan Dayton, Aaron Burr, Benjamin Havey, Davis Floyd, Josias Stevens, William Croghan, John Gwathmey, John Harrison, Martin C. Clark and Samuel C. Vance.

In following the canal legislation through the territorial period, it is interesting to note that the incorporation of the "Little Wabash Navigation Company," on December 24, 1817, was the first act creating a corporation by a distinctly Illinois lawmaking body, the Territorial Legislature of Illinois.

This first distinctly Illinois Corporation Act contains some features that are sometimes talked of in these days; for instance, the property of the canal, although a private concern, was to be exempt from taxation perpetually. That provision would be illegal under our present Constitution. The company was empowered to collect tolls, and a distinguishing feature of the act was that the canal was to become the property of the State at the end of thirty years. A similar provision with reference to State ownership was included in the act of January 9, 1817, incorporating the "Illinois Navigation Company", giving Henry Bechtel and his associates the right to cut a canal and build locks from the Mississippi to the Ohio River near the town of America, in Johnson County.

CORPORATIONS.

The first general incorporation act to which the Illinois country was ever subject was passed May 1, 1798, by Governor St. Clair and the territorial judges of the Northwest Territory.

The general provisions of this law did not differ materially from general incorporation acts of the present day, but it contained this significant limitation: "Provided always that the clear yearly value or income of the messuages, houses, lands and tenements, annuities or other hereditaments and real estate of the said corporations respectively and the interest on money by them lent shall not exceed the sum of fifteen hundred dollars."

Quite frequently, the question of limitation upon corporation holdings is spoken of at the present time.

CRIMINAL LAW.

In the first year after the organization of the Northwest Territory, 1788, by an act adopted September 6th of that year, quite a complete criminal code was adopted. It dealt with the usual crimes, but the notable features in connection therewith were the punishments provided. Treason and murder were the only crimes punishable by death in this first law though arson, horse stealing and bigamy were made punishable by death in later laws. For arson, the convicted person might be whipped not exceeding thirty-nine stripes, pilloried for two hours, confined in jail three years, made to forfeit all his estate and if a death resulted from the burning, the convict should be put to death. For robbery or burglary with theft, thirty-nine lashes, a fine of treble the value, one-third of the fine to go to the territory and two-thirds to the party injured. For robbery or burglary with abuse and violence, the same punishment as burglary with theft and in addition, forfeiture of all property and confinement in prison for not to exceed four years. Robbery or burglary with homicide was punishable by death and all persons aiding or abetting were deemed to be principals. For obstructing authority, one might be fined and whipped not to exceed thirty-nine lashes. For larceny, one might be adjudged to return double the value of the goods stolen or to receive thirty-one lashes. For forgery, a fine of double the loss caused and not to exceed three hours in the pillory. For disobedience on the part of servants or children, imprisonment was provided; for striking a master or parent, not to exceed ten lashes. For drunkenness, a fine of one dollar was payable and the person convicted might be required to sit in the stocks for one hour.

As early as 1790, gambling of every species for money or property was forbidden under severe penalties and all gambling contracts were declared void.

Under an act of January 5, 1795, for the trial and punishment of larceny under $1.50, upon conviction, the accused might be publicly whipped upon his bare back not exceeding fifteen lashes or fined not to exceed three dollars, thus apparently fixing a whipping value of twenty cents per lash.

On December 19, 1799, an act was passed to punish arson by death.

On August 24, 1805, under the authority of the Territory of Indiana, a stringent law was passed to prevent horse stealing. For the first offense, the thief might be required to pay the owner the value of the horse stolen, to receive two hundred stripes and be committed to jail until the value of the horse was paid. On a second conviction, the offender should suffer death.

By the same law, hog stealing was made punishable by a fine of not less than fifty dollars nor more than one hundred dollars, and the thief might be given not to exceed thirty-nine lashes on his bare back. This same act provided a fine for swearing.

By an act of October 26, 1808, the law was further amended making horse stealing punishable by death and making the receiver equally guilty with the thief and also punishable by death.

The governor and judges as legislators for the Territory of Indiana, dipped into the proposition of conclusive presumptions when, on December 5th of that year, they passed an act to prevent altering and defacing marks and brands and the mis-branding of horses, cattle and hogs. It provided a penalty for mis-branding equal to the value of the animal misbranded, "one dollar and forty lashes on the bare back well laid on", and for a second offense, the same fine and "to stand in the pillory two hours and be branded in the left hand with a red hot iron with the letter "T" (meaning "thief").

It provided further that any person bringing to market or to ship "any hog, shoat or pig without ears, he or she so offending shall be adjudged a hog stealer".

The first Territorial act to impose any duty upon counties was that of August 1, 1792, which required each county to build and maintain a court house, a jail, a pillory, whipping post and stocks.

The whipping post, pillory and stocks were institutions of the law to which this State was subject from their institution

in 1788 to 1832. This character of punishment was justified on the ground that there were no penitentiaries in which to confine criminals and there was still a sharp division of sentiment as to which, confinement or whipping, was the better mode of punishment, in 1829, when the movement for a penitentiary, led by the rough old backwoodsman, John Reynolds, afterwards governor, was launched.

DIVORCE.

The first divorce law was passed by the governor and judges of the Northwest Territory July 15, 1795. It contained but three causes of absolute divorce; namely, (1) former wife or husband living at the time of marriage; (2) incompetency (3) adultery, and but one cause of divorce from bed and board, namely, extreme cruelty. Tracing divorce legislation through the territorial changes, it is found that the Legislatures, despite the fact that general laws existed, reserved to themselves the right to grant divorces outright. An amusing divorce act appears in the Session Laws of 1818. On January 6th of that year, an act was passed granting a divorce to Elizabeth J. Spingy. The act recites in the preamble that James Spingy, her husband, is unfaithful and it has been represented to this Legislature that said Elizabeth must be considerably injured if she cannot obtain a divorce sooner than in the ordinary way and enacts that the bands of matrimony are hereby dissolved.

ELECTIONS.

About the only elections with which the people were concerned in territorial days were those of representatives in the General Assembly after the Territory attained to the second grade of territorial government. The greater territory got to that stage in 1799 and a compehensive election law was passed which reflects credit upon the framers; but it contained a striking provision with reference to the manner of voting. It provided that the elector should approach the bar in the election rooms and addressing the judges in an audible voice so as to be heard by the judges and poll keepers, mention by

name the person or persons he desired to vote for, and the poll keepers shall enter his vote accordingly. This was the *viva voce* vote.

A few years later, an act was passed providing that all voting should be by written ballot, but on December 8, 1813, the Legislature of Illinois, "to prevent fraud and imposition", passed an act abolishing voting by ballot and making only voting *viva voce* legal.

Following the election laws a little further, we find that at the time of the adoption of the Constitution of 1818, a law was in force requiring all voting to be by ballot, but that, in 1821, the ballot law was again repealed and a provision made that the voting should be *viva voce.* In 1823, an act was passed providing for voting by written or printed ballot. In 1834, voting by written or printed ballots was abolished, but in 1839, a new act was passed providing again for a written ballot.

The Constitution of 1848 provided for a written or printed ballot and ever since we have voted in that way.

FERRIES.

It is quite amusing to hit upon the small politics that sometimes influence public action. By an act of January 9, 1816, of the Illinois Territorial Legislature for regulating ferries, free ferriage was granted preachers of the Gospel but by an act of December 17th of the very next year, the provision for free ferriage for preachers of the Gospel was expressly repealed.

FISHERIES.

There were some special favors in these days also. By an act of December 29, 1817, William Morrison, of Randolph County, a familiar name in early Illinois history, was authorized to erect a dam three feet high, on the falls of the Kaskaskia River, opposite the mouth of the Nine Mile Creek, for the purpose of catching fish. As noted farther on, Mr. Morrison also secured a bridge franchise. Numerous ferries and several toll bridges were established in the same manner.

JURY SERVICE.

A change in the significance of words, perhaps, deprives the ladies of an argument that women were formerly qualified to serve on juries. An act of March 3, 1810, established the grand jury and provided that the sheriff should summon twenty-four "house keepers" for grand jury service, and an act of December 25, 1812, provided that any "house keeper" was qualified to serve on any jury whatsoever.

In later laws, the term has been changed to "householder".

KASKASKIA.

The Territorial Legislature of Indiana, sitting at Vincennes, on December 16, 1807, passed an act having an historic interest. The act provided for the appointment of Michael Jones, Robert Robertson, George Fisher, John Edgar and William Morrison, as commissioners and the first board of trustees of the town of Kaskaskia. They were authorized to appoint a clerk, an assessor and collector and empowered to levy a tax not exceeding two per centum on the value of lots for surveying the town, paying the expense of the officers and cleaning and keeping the streets in repair. Subsequent boards were to be elected by the residents. All owners of lots in Kaskaskia resident therein were qualified to vote for trustees. Nothing appears in this act or in the ordinance of 1787 to prevent women from voting provided they were residents and owners of lots in Kaskaskia.

LEGISLATURES.

Under each territorial government, acts were passed fixing the compensation of legislators and it is a matter of considerable interest that by the act of the very first legislature of the greater territory, passed December 19, 1799, the compensation of members was fixed at three dollars per day for attendance and mileage at the rate of three dollars for every fifteen miles, "at the commencement and end of every session". No subsequent act contains that qualification. A difference of opinion has long existed as to whether legislators are entitled

to their traveling expenses for necessary trips to and from the seat of government during the session or only at the beginning and end thereof. The omission of the restriction in all acts since that of 1791, and in the three constitutions would seem to indicate the intention to allow traveling expenses at other times besides the beginning and end of the session, but the Supreme Court has, within the year, held otherwise.

In comparison with our present formidable appropriations, the appropriation acts of early Legislatures are real curiosities. The first one, that of 1799, and indeed, all of the Territorial appropriation acts, indicate the most rigid economy and provoke a smile at their comparative insignificance.

LICENSES.

It was quite common in early days to regulate the sale of any or all kinds of merchandise as well as liquor. The legislation of the greater territory on that subject included merchandise and liquors under the same acts. The territory of Illinois imposed a general license for the sale of merchandise of fifteen dollars a year.

LIQUOR.

In all the early acts authorizing the licensing of tavern-keepers, fair dealing and proper treatment of the customers were the principal aims. There was plainly no prejudice against the selling of liquor, but a determined intent that the public should be well treated.

To that end, the tavern-keeper was obliged to furnish good eating and sleeping accommodations and to refrain from overcharging. The judges or others empowered to grant licenses were authorized to fix a scale of prices for board, lodging and drinks which must be rigidly adhered to under severe penalties.

MARRIAGES.

The first law regulating marriages, to which the Illinois country was subject, required no formal license, except as an

alternative to publication, but simply an application to any of the judges of the General Court or of a County Court of Common Pleas, or to a minister of any religious society or congregation, or to the society of Quakers; but it was provided that "previously to persons being joined in marriage * * * the intention of the parties shall be made known, by publishing the same for the space of fifteen days at the least, either by the same being publicly and openly declared three several Sundays, holidays or other days of public worship, in the meeting in the towns where the parties respectively belong, or by publication in writing, under the hand and seal of one of the judges before mentioned or a justice of the peace within the county, to be affixed in some public place in the town wherein the parties respectively dwell, or a license shall be obtained of the governor, under his hand and seal, authorizing the marriage of the parties without publication, as is in this law before required".

The law in relation to marriage was modified by the Territory of Indiana in 1806, to provide that licenses might be issued by the clerks of the court of common pleas instead of the governor, and by an act of September 17, 1807, of the Indiana Legislature, the provisions of the act of 1788 with regard to the publication of banns, was re-enacted.

By an act of November 4, 1803, adopted by the governor and judges of Indiana Territory, forcible and stolen marriages were forbidden and bigamy was declared a felony and made punishable by death.

MILLS AND MILLERS.

By an act of December 2, 1799, the milling business was quite minutely regulated. The act fixed the toll for grinding and bolting wheat and rye into flour at one-tenth part; for like service with respect to corn, oats, barley and buckwheat, one-seventh part; if the grain be only ground and not bolted, one-eighth part. For grinding malt and chopping rye, one-twentieth part.

The proprietor of a horse mill was entitled to less toll than that of a water or wind mill. Penalties were imposed for tak-

ing excessive tolls and the miller was made accountable for all grain received and required to provide correct measures whereby to ascertain the toll, which must be compared with government standards.

By act of August 24, 1805, the writ of *ad quod damnum* was introduced into our jurisprudence. Such writ might issue from the court of common pleas for the purpose of impaneling a jury to view mill sites and assess damages.

The Legislature of Illinois in 1817 by an act of December 17, reduced somewhat the amount of toll which the miller might take for his services.

PRISONS.

By an act adopted in 1792, the sheriff and other officers were made responsible for the safe keeping of prisoners. If a prisoner escaped, the officer was severely punished, and if he were imprisoned for debt, the officer could be held liable for the debt.

It is interesting to know that there has been on foot for several years past, a movement to have a stringent liability provision inserted in the statutes of the several States relating to mob law, riots and unlawful assemblies, and it is of still further interest to find that the Legislature of the greater territory, by an act of December 19, 1799, repealed the liability provisions of the early law above referred to, expressly upon the ground that escapes were consummated by collusion in order that the officers might be held responsible.

An act passed by the Territory of Indiana on September 17, 1807, and another by the Territory of Illinois on July 22, 1809, are genuine curiosities, as regulating the manner of holding prisoners in confinement, out of doors. The one provided for fixing a boundary, (200 yards at the highest), beyond which prisoners were not allowed to pass. It is presumable that when the prisoners were numerous, it was easier for them to escape, and consequently the act of 1809 provided that guards might be hired to keep them within the bounds, or if none could be found willing to engage for the purpose, power was given to impress guards.

All of this was before we began building prison strongholds.

PRIVILEGES.

Privilege from arrest was quite extended in the early days. By an act of the Indiana Territory of September 17, 1807, virtually all persons performing any public duty were exempt from arrest during the performance of such duty. No person could be arrested while doing military duty or while going to or returning from parade. None could be arrested on Sunday or in any place of religious worship or in either House of the Legislature during its sitting, or in any court during the sitting thereof, nor on the Fourth of July. These exemptions did not, however, extend to charges of treason and felony.

REVENUE.

It is quite popular nowadays to advocate the levy of a tax upon bachelors, but it is by no means new. As early as June 19, 1795, the governor and judges of the Northwest Territory included a tax of $1.00 per head on single men, and such a tax was imposed throughout the territorial period.

The governor and judges of the Illinois Territory by an act of July 20, 1809, fixed a license of $15.00 per annum for the sale of merchandise, and the Territorial Legislature of Illinois by an act of December 22, 1814, levied a tax of $40.00 annually on billiard tables.

By an act of January 9, 1816, the tax on billiard tables was raised from $40.00 to $150.00; $100.00 to go to the Territorial treasury and $50.00 to the County treasury.

It became the settled policy of the several territories to levy a tax on Dunkards and Quakers as a consideration for their being released from military duty, and a similar provision as to all persons having scruples against military duty still exists in the constitution of 1870.

ROADS AND BRIDGES.

As early as Aug. 1, 1792, the inhabitants of the various localities were required to work upon the roads and keep them in good condition. The road laws of 1792 and 1799 were very comprehensive Acts.

By an Act of the Illinois Territorial Legislature of Jan. 6, 1818, Mr. William Morrison, of whom we have before spoken, was granted power to build a floating bridge over the Kaskaskia River, in the County of Washington, at his own expense, and he was empowered to collect as toll the same rates as ferries, for seven years.

It was further provided that "no one shall build a bridge within three miles thereof." This was the first Toll Bridge Act.

SERVANTS.

The first of the "Black Laws" which played such an important part in the history of this State and which were in reality devices for the evasion of the provisions against slavery contained in the ordinance of 1787 was passed by the territory of Indiana, September 22, 1803. It was several times amended and enacted into the laws of the territory of Illinois. It was against these laws that Lovejoy and the other anti-slavery men railed and these laws were the culminating influence upon slavery in Illinois.

TRESPASS.

Our forefathers were direct if anything. In many cases instead of putting an aggrieved person to the trouble of bringing several suits or prosecutions, relief was afforded in a single proceeding; as, for instance, the Act of August 15, 1795, to prevent trespassing by cutting of timber, provided that any one convicted of such trespass should pay to the owner for black walnut trees, white wood, wild cherry or blue ash cut down, $8.00, and for any other kind of a tree, $3.00.

VAGRANCY.

For several years past, there has been a great deal of agitation concerning the manner of jailing delinquents, thus depriving their families of their support, and it is suggested that such persons be obliged to work and their earnings, or part thereof, be available for the support of their families.

The Indiana Territory accomplished this purpose nearly one hundred and ten years ago. By an Act of September 14, 1807, concerning vagrants, it was provided that "every person suspected of getting his livelihood by gaming, every able-bodied person found loitering and wandering about, having no visible property and who doth not betake himself to labor or some honest calling; all persons who quit their habitation and leave their wives and children, without suitable means of subsistence, and all other idle, vagrant and dissolute persons rambling about without any visible means of subsistence, shall be deemed and considered vagrants."

The Act further provided for arrest of all such and upon conviction that such as are adult, shall be hired out by the sheriff and their earnings paid to their families, if they are in need of them, and if not, to the discharge of their debts.

It further provided that if no one would hire them, such vagrant should receive not to exceed thirty-nine lashes. Adults might be discharged by giving bond conditioned upon their going to work and keeping at it. If the vagrant be a minor, he shall be bound out until of age.

These are a few of the striking laws selected from the great body of our Territorial legislation. It is not intended to indicate that the odd laws ended with the organization of the State. As a matter of fact, there were some very striking Acts adopted by the State Legislature; such, for instance, as the Act of February 14, 1823, making drastic regulations concerning the sale by peddlers of wooden clocks, which no doubt resulted from numerous frauds committed by peddlers in the pioneer community. Or such as the Act of January 17, 1825, which prohibited Justices of the Peace from receiving payment upon any claim or demand placed in their hands for collection, passed, no doubt, as a result of numerous failures of J. P.'s to turn over their collections.

All these Acts illustrate the statement made early in this paper, that law is the essence of the activities of the community. It arises from what is being done in the community and is the final record of the community mind. It is, therefore, the most reliable historical criteria.